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8 JASON MUNOZ and AMY MUNOZ,

9 Plaintiffs,

10 v.  
11 ELEVATOR SERVICE COMPANY OF  
12 CENTRAL CALIFORNIA, INC., et al.

13 SAN JOSE DIVISION

14 Case No. C-13-02374-RMW

15 **ORDER RE: REQUESTS TO  
CONTINUE SUMMARY JUDGMENT  
HEARING**

16 [Re Docket No. 56]

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18 Defendant Elevator Service Company of Central California, Inc. (“ESC”) filed its motion for  
19 summary judgment on December 3, 2014, with a hearing date of January 9, 2015. Dkt. No. 36. On  
20 December 16, 2014, the day before plaintiffs’ opposition was due, plaintiffs filed an “Application  
21 for Administrative Order to Continue [ESC’s] Motion for Summary Judgment”, citing Local Rule 7-  
22 7. Dkt. No. 56. This motion is more properly characterized as an ex parte motion to change time  
23 under Rule 6-3. The court also received an email inquiry from defendant KONE indicating that it  
24 also seeks to continue the summary judgment motion. *See* Ex. 1 to this Order.

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26 The court directs defendant KONE to file an ex parte application under Rule 6-3, if it  
27 wishes. ESC may file an opposition to the motions to continue by Monday, December 22, 2014. *See*  
28 Civil L. R. 6-3(b).

1 **IT IS SO ORDERED.**  
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Dated: December 18, 2014

  
Ronald M. Whyte  
United States District Judge

**EXHIBIT 1**



**Fw: Calendar Request: Munoz v. ESC (5:13-CV-02374)**

**Jackie Garcia** to: Libby Moulton  
This message is digitally signed.

12/18/2014 10:46 AM

see below



**Jackie Lynn Garcia**  
Courtroom Clerk to Judge Ronald M. Whyte and  
Judge D. Lowell Jensen  
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----- Forwarded by Jackie Garcia/CAND/09/USCOURTS on 12/18/2014 10:46 AM -----

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From: Bret Landess <bret@orplaw.com>  
To: "Jackie\_Garcia@CAND.UScourts.gov" <Jackie\_Garcia@CAND.UScourts.gov>  
Date: 12/18/2014 10:39 AM  
Subject: Calendar Request: Munoz v. ESC (5:13-CV-02374)

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Dear Ms. Garcia:

My firm represents defendant KONE Inc. in the Munoz v. Elevator Service Company of Central California, Inc. matter (5:13-CV-02374).

I have a question about Judge Whyte's preference in this matter. Please allow me to briefly explain:

My client intends to file a request for an order continuing co-defendant ESC's motion for summary judgment (currently scheduled for hearing on January 9, 2015).

Plaintiff recently filed a similar request as an "Application for Administrative Order" pursuant to Local Rule 7-11 (Also scheduled for hearing on January 9, 2015). My concern is the request may be more adversarial than administrative, and more properly presented as an Ex Parte application pursuant to FRCP Rule 6.

Can you please let me know if the Court has a preference in this regard? Also, please let me know if the Court would prefer to hear KONE's request on January 9, 2015, or on some other date.

Thank you for your assistance in this matter.

Yours,  
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